

UNIT 8 : THE FORMATION STRUCTURE AND FUNCTIONS OF THE GOVERNMENT OF KENYA.

Electoral system and process

Its ways in which elections are conducted by the body responsible for elections and the roles and principals guiding the process.

General elections are held on the **2nd Tuesday of August** every five year.

During the general elections, registered voter cast ballot for the president, Mps, senators, governors and members of county assemblies.

Electoral process in Kenya is supervised by the Independent Electoral and Boundaries Commission.

IEBC. This an autonomous body created by the constitution for the purpose of exercising electoral process.

Composition of IEBC.

Consists of a maximum of 9 members headed by the chairman.

All commissioners appointed by the president with approval by the national assembly for a single term of 6 years.

Functions of IEBC.

- i. Registration of voters and maintenance of voters roll.
- ii. Regulation of nomination process.
- iii. Ensures voters registration.
- iv. Registration of candidates for elections.
- v. Settlement of election disputes from nomination but excluding position after declaration of results.
- vi. Development of code of conduct for candidates and parties conducting elections.
- vii. Regulation of funds that may be spent by a candidate or party in respect to any election.
- viii. Supervisions of the actual elections day by facilitating observation, monitoring, transporting of items, evaluation and announcing results.
- ix. Allocation of political parties' nominated seats proportion to total number of seats.

Electoral units.

This includes constituencies, counties and wards.

The IEBC has the mandate to review at regular intervals the constituency and ward boundaries, taking into consideration population geographical features, means of communication and interest and cultural ties.

The electoral process.

The stages of the electoral process.

Voter registration.

- ✓ This is an on-going process for one to qualify as a voter hence one must be.
- ✓ An adult citizen aged 18 years on date of registration.
- ✓ Be of sound mind.
- ✓ A Kenyan citizen.
- ✓ Should not have been convicted of an election offence.

Civic education.

This is carried out by the IEBC to familiarise the voter on the voting process e.g. balloting, symbol, and registration among others.

Nomination.

The parliament is set to pass legislation on process of nomination.

Qualification for the various candidates are:

a) National government.

Presidential.

- i. Kenyan citizen by birth.
- ii. Should be qualified to stand as a member of parliament.

- iii. Should be nominated by a political party or an independent candidate.
- iv. Should be 35 years of age and above.
- v. Must be nominated by at least 200 voters from each of the majority of the counties.

Disqualifications.

- ✓ Is a holder of state office with exception of offices of president, v.p or m.p.
- ✓ If a person owes allegiance in a foreign state.
- ✓ If he dies.
- ✓ Resigns in writing to speaker of national assembly.
- ✓ Found physically or mentally incapable of performing functions of office by the national assembly.
- ✓ Is removed from the office if an impeachment/change is upheld against him or her by members of the senate.

Procedure at presidential Elections.

- If only one candidate is nominated and cleared by the IEBC, then that candidate is declared elected. However, if two or more candidates are nominated an election is held in each constituency.
- All registered voters are entitled to vote.
- The vote is taken by secret ballot on one day. The votes are counted in the polling stations and the result sent to the national tallying centre.
- The IEBC tallies and verifies. They count and announce the results.

A candidate must do the following to be declared as a president.

- i. Receive more than half of all the votes cast in the election.
- ii. Gain at least 25% of the votes cast in more than a half of the counties.
 - If no candidate meets these conditions the fresh election is held within 30 days.
 - In new election the only candidates are: - the candidates who received the greater number of votes.
 - Then the candidate with the second greatest number of votes.
 - The candidate who receives the highest number of votes in the run-off election is declared the winner

Disputes in presidential election

- i. In case a person is dissatisfied with the outcome of the presidential election, the following procedure is to be followed.
- ii. Petition is filed in the Supreme Court within 14 days after the date of the declaration of results.
- iii. Within 14 days of the petition the supreme court hears and determines the petition. His decision is always final.
- iv. The Supreme Court determines the election to be valid the fresh election is done within 60 days.

Swearing in of the president.

It's done after the 1st Tuesday, after the 14th of the declaration of the results by the C.A and the president holds office for 5 years and cannot serve for more than two terms

Vacancy in the office of the president

- ✓ The president dies
- ✓ The president resigns in writing to the speaker for the national assembly.
- ✓ The president is found by tribunal appointed by the CJ to be incapable in performing the functions of the office of the president as approved by majority in the national assembly. When the national assembly passes the motion of impeachment against the president this must be approved by the senate.
- ✓ If the petition had been successful in the supreme court.

Parliamentary Election

Like presidential elections parliamentary elections are held on the 2nd Tuesday in August in every 5 years. Voters in every constituency elect representatives to the national assembly, while voters in each county elect representatives to the senate, in addition, voters in each county elect women ref to the national assembly.

Qualifications for election as a member of parliament

- ✓ A registered voter
- ✓ Certified the scribed educational party or is an independence candidate.
- ✓ Of sound mind
- ✓ Not bankrupt
- ✓ Is not having a sentence of imprisonment
- ✓ Has been a Kenyan citizen for atleast 10 years of election.
- ✓ Is not a state officer other than a member of parliament?

Procedure at parliamentary election

Days after parliament is dissolved the speaker of respective houses give notice in writing of the vacancies to the independent electoral boundaries comm. (IEBC)

Political parties' nominate their candidates within a specific period; the nominees are represented to the IEBC for clearance of a given date.

They must have atleast 1000 registered voters in the constituency in terms of support.

In senate atleast 2000 are registered voters in the country.

Candidates are given 21days to campaign and sell their policies to the voters.

The pooling day, voters cast their voters in their pooling statics between 6am – 6pm.

The ballots are counted at the pooling station and the results announced.

The results are then taken to the tallying centres where they verified and winners declared.

Right of recall

The electorates have the right to remove from office their member of parliament before expiry of 5 years term through rules.

Election of county officials.

County government.

Deputy count governors.

Member of the county assemble (MCA).

Election of the county governor

Conditons

- i. A registered voter.
- ii. Satisfies prescribed educational moral and ethical requirements.
- iii. Either nominated by a political party or an independent candidate supported by atleast voters in the world
- iv. Should be of sound mind
- v. He/she is not declared bankrupt
- vi. He/she is not found to have misused of abused the public office

The county governor may be removed from office on any of the following grounds if he violates constitution.

- i. If he/she commits a crime, abuse of office or misconduct by the holder.
- ii. The holder is mentally or physically incapacitated to hold the office.
- iii. However, a vacancy may occur in the office of the governor if the holder of office dies.
- iv. The holder of the office resigns in writing the speaker of the county assembly. The holder of the office ceases to be eligible to be elected as a county governor.
- v. The holder of the office is convicted of any offence punishable by imprisonment for atleast 12 months.

A person is not allowed to hold the office of the county government for more than 2 terms.

Elections of members of county assembly

This is done by voters in the ward and they serve for terms of sycars.

Qualifications for elections of MCS

- i. Is not a holder of public officer
- ii. Be a registered voter with a satisfied education moral and ethical requirement.
- iii. Is of sound mind.
- iv. Not bankrupt.
- v. Nominated by political party
- vi. He/she an independent candidate supported by atleast
- vii. Too registered voters in the world
- viii. Should not be serving a sentence of imprisonment exceeding 6 monthsh.
- ix. Be a Kenyan citizen by atleast 10 years.
- x. Has not within the previous 5 years had office or a member of IEBC

BY- ELECTION

This are elections which are held to fill an elective office which faults vacant before the expiry of the specified time its held within 90 days of the occurrence of a vacancy in the office of a member of a national assembly, senate or county assembly.

Conditions that may necessitate a by-election

- i. Member of Parliament dies
- ii. A Member of Parliament misses twelve consecutive seatings for the relevant houses without permission from the speaker.
- iii. Member resigns from the party that sponsored him/her to parliament.
- iv. When a member is mentally or physically incapacitated to perform his/her functions.
- v. A member ceases to be a Kenyan Citizen
- vi. A member is jailed for a period extending 6 months.
- vii. A member is declared bankrupt.

THE IEBC OF KENYA.

It has 9 commissioners.

A Chairperson is appointed by the president but approved by the national assembly.

A vice - chairperson elected by the commissioners.

A Secretary appointed by the commission.

A chief exectuvie officer appointed by the common.

Functions of IEBC

- i. Conducts and surprise elections and referendum
- ii. The continous registration of voters.
- iii. The regular revision of voters' role
- iv. Review the names and boundaries of constituencies' wards.
- v. Regulate the process by which parties nominates candidates for elections.
- vi. Settle electrol disputes arising from nominations.
- vii. Register candidates for election
- viii. Conduct voter education.
- ix. Facilitate the observation, monitoring and evolution of elections.
- x. Develop a cord of conduct and parties contesting elections.
- xi. Appoints election officials such as the returning officers, preciding officers and their deputies and polling clerks.

Returning officers (RO)

They are appointed form each constitutency

There role are

- i. They receive nomination papers from candidates.
- ii. They distribute election materials to polling stations
- iii. Supervise poll results from the polling stations.
- iv. Tally and verify results and announce the winner/

- v. Tally presidential results from constituency or county and relay them to the national tallying centre.

THE PRECIDING OFFICER (PO)

They are appointed arm each polling station to see that every voter votes are only ones.

A mark of usually not easily removable ink is put on the voters' small finger.

To help voters who are unable to mark their ballot papers.

To seal the ballot boxes after voting is completed in the presence of party agents.

Count ballot paper in the presence of party agents in voting stations and announce results.

FORMATION OF GOVERNMENT

There Are 2; National and County government

a) National government

It has 3 arms 1. The executive

2. The legislature

3. The judiciary.

Formation begins with a general election where citizen elect members of the legislative and the president. Person elected as a president becomes the head of the executive arm of the government and appoints cabinet secretary and other senior civil servants and approved by the national assembly.

The judiciary is made up of judges, magistrate and judicial officers.

The C.J (Chief Justice) and the (DCJ) is appointed by the president allowing recommendation over the judicial service commission and approved by the national assembly.

Magistrate and judicial officers are appointed by the judicial service commission.

County Government

It operates at county level

Each of the 47 counties has a government which enjoys powers.

Dedicated to it by a national government.

The governor, D. G, county assembly and the executive committee.

The governor appoints members of the county executive committee from persons who are not members of the county assembly and must be approved by the county assembly

STRUCTURE AND FUNCTIONS OF THE NATIONAL GOVERNMENT

1. The legislature (The Parliament)

Its referred to as parliament. It's a bi-cameral, that is national assembly and the senate.

It's the law making arm of the government

2. National assembly

It's the lower house of the legislature

There are 290 constituencies in Kenya

Some members are nominated to represent special interest groups.

On its 1st meeting members elect the speaker.

3. Senate

This is the upper house of the legislature

Has 47 members and some are also nominated to represent special interest groups.

The senate also elects the speaker who is an ex-official member.

COMPOSITION OF THE NATIONAL ASSEMBLY

✓ It has 350 members.

✓ 290 elected members representing the constituencies

✓ 7 women elected by registered voters from each county.

✓ 2 nominated members by parliamentary political parties.

✓ The speaker who is an ex-official member.

COMPOSITION OF THE SENATE

It has 68 members, 47 elected members representing counties.

Women members nominated by political parties represented in the senate.

Two members 1 woman and 1 man are represented the youth

Two members, 1 woman and 1 man to represent persons with disabilities.
The speaker who is an ex-official member.

FUNCTIONS OF THE NATIONAL ASSEMBLY

- ✓ Represent the people of the constituency and special interest groups.
- ✓ They liberate on and resolve issues of concern to the people.
- ✓ It makes and amends laws.
- ✓ It determines the allocation of national revenue between the national and county government.
- ✓ Approves government expenditure.
- ✓ Supervises national revenue and expenditure
- ✓ Review in conduct the office of the president/deputy president and other state officers.
- ✓ Approves declarations of war and extensions of state of emergency
- ✓ Supervises the operation of state organs.

FUNCTIONS OF THE SENATE.

- ✓ Participate in law making function of the parliament by debating and approving bills concerning counties. Representing and protecting the interest of the county and the government.
- ✓ Determines the allocation of national revenue among counties.
- ✓ Oversees expenditure of national revenue allocated to the county government.
- ✓ Participated in considering and determining resolutions to remove the president or deputy president in office.
- ✓ Any initiated may initiate bills concerning the communities.

Process of law making

The legislature makes law through bills ascended to by the president.

It may originate from national assembly or running mate.

Process of grafting a bill

A bill is a proposed legislation.

They are of two types i.e – Private member bills

Public bills

Private member bill

Grafted by a member of parliament of the member may draft the bill him/herself seeks assistance from a qualified bill drafter the member publishes the draft bill of the Kenyan gazette for the members of public acquaint themselves with its content and against amendments.

The member then presents the graft bill in the flow of the house.

The public bill is also referred to as **government bill**.

The process of grafting public bill begins from the ministry which develops a general policy concerning the proposed bill.

The general policy is submitted to the Kenya Law Review Commission (KLRC).

This body is judged with the responsibility of reviewing the policies from the new bill and formulating draft bills.

The draft bill from (KLRC) is presented by the Attorney General who makes suggestions for improvements.

The AG also insures the graft bill is invalid with the General government policy.

The AG forwards the graft bill to the commission of implementing of the constitution the (CIC).

The CIC insures that the letter and the spirit at the new constitution is respected and improves the bill.

The CIC returns the bills of the AG who enables it before the cabinet for debate and removal. The cabinet empowers the cabinet secretary to establish the bill on the Kenyan gazette for members at the public to acquaint themselves to the content and make the suggestions.

The bill is then tabled for parliament. For a bill becomes law it has to go through the following stages.

1st reading

The bill is introduced in the house.

It allows members to appoint themselves in the content to debate is permitted at this stage.

The MPs are only required to approve or improve such intended legislation on the country's law.

If it's approved it moves to the 2nd reading

2nd reading

Where discussion begins. Debated in detail.

Amendments are proposed/suggested.

At this stage, the bill can either be rejected or be discussed or its discussion postponed for 6 months to give the concerned ministry time to and draft the bill

If the bill survives this stage; it goes to the 2nd stage.

COMMITTEE STAGE

Parliament turns itself into a committee at the whole house or a smaller committee with a view to make improvements on the bill recommendation made during the 2nd reading.

Report stage

This involves taking the bill back to parliament in its improved form.

The MPs are also given opportunity to confirm that the suggestions and recommendations at the committee stage have been incorporated into the bill. That sets the stage for 3rd reading. Further debates take place and even additional amendments may be made on the bill. Voting takes place if the MPs approve it passed to the next stage.

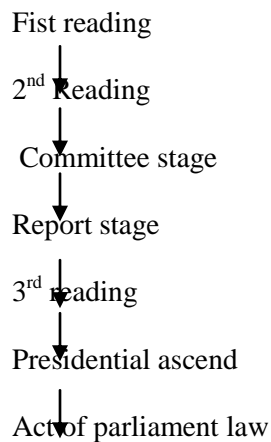
PRESIDENTIAL ASCEND

After the president ascends the bill becomes an act of parliament and one of the laws of the country.

It's then published in the Kenyan gazette for public knowledge and awareness

THE PROCESS OF LAW MAKING

Drafting of the bill, Attorney General's chamber



PARLIAMENTARY SUPRIMACY (POWER)

This means that the parliament is more powerful than other two institutions of government like executive and judicialry

Is exercised through legislation, financial.

Non – confidence mortion and general catesism.

It can make of repeal any law or constitute.

It can altar the constitution declare war of a state of emergency

There is no law that can override any made by parliament.

The members of parliament are immude to prosecution for whatever they say in parliament while contributing to the debates. This is what is known as parliamentatry immunity.

THE SPEAKER FUNCTIONS

- ✓ He’s the spokes person and the head of the house.
- ✓ He precides over the proceeding of the house.
- ✓ Dicpilines errants members and interpretes standing orders to the members.
- ✓ Effects the dignity and authority of the house presents parliament of official fucnciton outside the house.
- ✓ The speaker of the national assembly is the chairperson or the parliamentary sevice commission.
- ✓ Seeks in new elected MPs.

Functions of the clerk in the parliament

- ✓ The chief administrato and acoounting officer of the house.
- ✓ Advices the speaker in the order of the use business and lists a notice of morion.
- ✓ Tea prepares and maintains parliamentary records of the hosue proceedings in the Heansard affairs copies of bills and submit them for presidneatila escort.
- ✓ Adives and re-ordinate the work of the staff of the house.
- ✓ Maintains a liberty for the use by members of the house.

PARLIAMENTARY SERVICE COMMISSION

It consist of the following

The speaker of the national assembly as chairperson vice chairperson elected by members, 7 members appointed by parliament from among its members 1 man and 1 woman appointed by the parliament from among persons who are experienced in public affaires but are not members of the parliament.

The clerk at the senate as a secretary.

Functions

- ✓ Provide services and facilities for efficient and effective functioning of the parliament.
- ✓ Constituting of offices and parliamentary service.
- ✓ Appointing and supervising office holders in parliament service.
- ✓ Prepare annual estimates of expenditure of parliamnentary service and submit them for approval by national assembly.
- ✓ Promoting the ideal of parliamentary democracy in colaboratin with the relevant organisation.

THE EXECUTIVE

To implement the law and policies of government is headed by the president.

POWERS OF THE PRESIDENT

- ✓ Commander in chief of the armed forces.
- ✓ Power to exercise the executive authority of the republic.
- ✓ Power to uphold and safeguard the constitution and supremacy of the republic.
- ✓ Powers of mercy e.g. pardons persons convicted of offence.
- ✓ Powers to nominate, appoint or dismiss cabinet secretary and other officials.
- ✓ The power to confer honours in the name of the people and the republic.
- ✓ Chairperson of the national security.

FUNCTIONS OF THE PRESIDENT

- ✓ Addresses the openings and special seating in parliament.
- ✓ Reports once every year in a message to the nation on measures taken and progress achieved in realizing national values.
- ✓ Chair cabinet meeting
- ✓ Nominated and with approval of national assembly.
- ✓ Appoints or dismisses cabinet secretary, attorney general and other senior state officers.
- ✓ Receives foreign diplomatic and considers representatives.
- ✓ Directs and coordinates the functions of ministers and government departments.
- ✓ Confers honours in the name of the people and the republic
- ✓ Declares state of emergency
- ✓ Declares war with approval of parliament.
- ✓ Ensures the international obligations of the republic are fulfilled through the actions of the relevant cabinet secretaries.

FUNCTIONS OF THE DEPUTY PRESIDENT

- ✓ Performs any other functions assigned by the president.
- ✓ Is a member of the cabinet.
- ✓ The principal assistant of the president and deputes the president decides.

THE CABINET

Composition

President, the deputy president, the Attorney General, Cabinet secretaries who are not less than 14 and not more than 22.

The cabinet members are not members of parliament.

They are nominated and appointed by the president with approval of the national assembly.

The secretary of the cabinet performs the following duties.

- ✓ Takes charge of the cabinet office.
- ✓ Arranges the business of the cabinet.
- ✓ Keeps the minutes of the cabinet to the appropriate person or authority.

FUNCTIONS OF THE CABINET

- ✓ Appears before a committee of the national assembly or the senate when required by the committee and answers questions pertaining to various ministries.
- ✓ Provides parliament with full and regular reports concerning matters under their control.
- ✓ Assists and advises the president on day-to-day running of the government.
- ✓ Charts out and lays down guidelines on Kenya domestic and foreign policy.
- ✓ Discusses matters of national and international importance.
- ✓ Expands government policy.
- ✓ Ensures government policy is implemented by the civil servants/

THE PRINCIPAL SECRETARY (PS)

Each state department is headed by a principal secretary.

The office of the principal secretary is an office in the public service.

They are nominated by the president from among persons recommended by the public service commission (PSC). Their appointment must be approved by the parliament.

Functions of the PS (Principal Secretaries).

- ✓ They administer state departments.
- ✓ They are the accounting officers in the state departments
- ✓ Formulate and implement government policy.
- ✓ Assist in drawing up the budgets and development programmes of their departments.
- ✓ As a link between the cabinet secretary and staff of the department.

Functions of the Attorney –General.

He is nominated by the president and appointed, by the following approval of the National Assembly.

Functions include:

- ✓ He is the principal legal advisor to the government.
- ✓ Represents the national government in court or in any other legal proceeding.
- ✓ Promotes and upholds the rule of law.
- ✓ Defends public interest.
- ✓ Appears as a friend of the court in any civil proceeding to which the government is not a party.
- ✓ Takes part in the drafting of government bills before they are tabled in parliament.

FUNCTIONS OF THE DIRECTOR OF PUBLIC PROSECUTIONS (DPP)

The DPP is nominated and with the approval of the National Assembly, appointed by the president.

The DPP holds office for a term of eight years and is not eligible for re-appointment.

FUNCTIONS INCLUDE

- ✓ To institute and undertake criminal proceedings against any person before any court other than a court martial.
- ✓ Takes over and continues any criminal proceedings commenced in any court other than a court martial.
- ✓ Discontinues at any stage before judgment is delivered.
- ✓ Supervises and coordinates the work of state.
- ✓ Directs the Inspector – General of the National Police Service to investigate allegations of criminal conduct.
- ✓ Safeguards public interest and the interest of administration of justice to prevent abuse of the legal process. Delegates powers to prosecute subordinate officers.

THE PUBLIC SERVICE (PS)

This is the non-political section of the executive arm of the government.

It is headed by the principal secretary in the office of the president.

Members of public services are appointed by the public service commission.

FUNCTIONS OF THE PUBLIC SERVICE

- i. Provides service to the people especially service ministers like health and education.
- ii. Implements government policies and programmes.
- iii. Interprets government policies to the people so that they can willingly participate in their implementation.
- iv. Maintains government record.
- v. Advises cabinet secretary on matters of policy.
- vi. Ensures continuity in government operations since the public service is permanent while politicians come and go.
- vii. Collects government revenue through licenses.

PUBLIC SERVICE COMMISSION

It consists of the chairperson, vice chairperson and seven other members appointed by the president

Functions include

- ✓ Establishing and abolishing offices in the public service.
- ✓ Appointing persons to hold office in the public services
- ✓ Disciplinary and removing from office public service officers.
- ✓ Promoting and providing remuneration to public service officers.
- ✓ Developing human resources in the public service.
- ✓ Ensuring efficient and effective provision of service by public service officers.

- ✓ Hearing and determining appeals in respect of country government public service.

Composition and functions of National securities organs.

They are government bodies which provide internal security or protect the county from external attack, they help in maintenance of law and order and help to promote the rule of law

They include: a) the defence forces

b) National intelligence service

c) National police service

a) **KENYA DEFENCE FORCES (KDF)**

It consists – The Kenya Army's

The Kenya Air force.

The Kenya Navy

Functions of the K.D.F

- ✓ To defend Kenya from external aggression

✓ The Kenya Navy has the responsibility of patrolling Kenya's territorial waters and defending Kenya against seaborne invasions.

✓ The navy also is responsible for dealing with illegal docking and departures and unauthorised fishing in Kenyan waters by foreign vessels'. The Kenya Air Force secures Kenya's airspace against potential forces.

✓ They also assist the police in maintaining law and order.

✓ Within Kenya, the armed forces are sometimes involved in no-military activities such as road and bridge construction.

✓ Kenya's armed forces have also been involved in several occasions as part of the United Nations sponsor is peace keeping forces in war – torn areas e.g Namibia.

b) **National Intelligence services.**

This is the body which collects and gathers intelligence reports which are important to the state security.

It's headed by the Director General who is a member of the National security. It's headed by the Director General who is a member of the National Security Council.

Functions of the National intelligence Service.

✓ Collects intelligence information on threats to state security.

✓ Keeps the state informed on the feeling of people towards the government and the government policy.

✓ Gathers information on external threats to the nation.

NATIONAL POLICE SERVICE

It consists of the Kenya police service and the administration police service.

It's headed by the inspector general of the National Police Service.

The Kenya police service and administration police service are each headed by a Deputy inspector General.

It has several units which include. The criminal investigation Department (CID), Traffic police, police airway, Anti- Narcotics unit, among others.

Functions of the National Police Service.

✓ Maintaining law and order by preventing and detecting crime.

✓ Arresting suspected criminals and taking them by a court of law.

✓ Collecting and evaluating intelligence information and documents for fighting crime.

✓ Carries direction and inspection of moto vehicles.

✓ Monitoring the in-coming and outgoing traffic at border posts and entry points.

✓ Collaborate with Interpol in fighting international crime.

✓ Provide security to senior government officers and buildings.

✓ Prevent corruption and promote practice of transparency and accountability.

✓ Train staff to highest possible standards of competence and integrity.

✓ The constitution established a National police service commission which plays the following function.

✓ Recruits and appoints person to hold or act in offices in the service.

- ✓ Confirms appointment and determines promotion
- ✓ Determines transfers within the service.
- ✓ Exercises disciplinary control over officers.
- ✓ Removing persons holding or acting in offices with the service.

CHALLENGES FACING THE NATIONAL SECURITY ORGANS.

- ✓ 1. Porous boundaries especially the borders of Kenya and Ethiopia.
- ✓ Rising crime rates due to swelling population and unemployment has overwhelmed the security organs. Increased cases of sophisticated crimes such as cyber crime, terrorism, money laundering and drug trafficking
- ✓ Poor infrastructure e.g poor and communication network makes it difficult for security organs to access certain parts of the country.
- ✓ High incidents of corruption and related vices like nepotism and favouritism has hampered service delivery to the public.
- ✓ High influx of refugees from war torn countries has led to smuggling of arms in the country, posing a security risk.
- ✓ The emergence of organized criminal gangs in the name of vigilance groups have caused insecurity in many areas.

POSSIBLE SOLUTIONS

- ✓ Employing more police officers to improve on the overall police to population ratio.
- ✓ Reviewing of the security organs training curriculum to incorporate skills for combating emerging crimes increase the duration of training of security officers to make them more efficient in fighting crime.
- ✓ Providing modern equipment such as communication gadgets, forensic laboratory and arms.
- ✓ Increasing funding to security organs for purchase of motor vehicles for their daily operations.
- ✓ Improving the conditions and terms of service of police officers.
- ✓ Increase surveillance along international boundaries by opening patrol bases and deploying more personnel to curb illegal entry into the country.
- ✓ Streamlining the recruitment of personnel into the security organs to reflect the diversity of the Kenyan people.

CORRECTIONAL SERVICE

It falls under National Police Service.

They are measures taken to punish and rehabilitate offenders so as to reintegrate them into the society. The prisons services have various categories of institutions which help to prevent contamination of minor offenders by worse ones.

These institutions include

Principal institution.

These confine offenders convicted of serious crime e.g those sentenced to life imprisonment.

District I and II prisons

These hold offenders convicted of serious crime but which are not capital offences (medium security prisons)

Youth institutions.

These are used to confine young offenders of between ages 15 and 21.

They offer vocational training and give them opportunities to continue education.

Other correctional services include

Extra – mural panel employment scheme. This involves convicts residing in their homes but working on government projects or public works for the entire period of their sentence.

Probation Department

This is where convicts are placed under the observation of a probation officer. The officer provides counseling service and monitors change in behaviour and conduct of the convict.

Functions of correctional services

- ✓ Punishing convicted offenders as directed by a court of law.
- ✓ Rehabilitating convicted offenders.

- ✓ Confining convicted prisoners.
- ✓ Deferring those who might be thinking of committing crimes.
- ✓ Offering welfare services to convicts.
- ✓ Continuing remandees as they wait to appear in court.

Challenges facing correctional services

- ✓ There is congestion in prisons which is caused by high incidents of crime. This has led to poor living conditions as the prisons facilities are overstretched.
- ✓ High incidents of disease outbreaks such as cholera and typhoid fever. This has led to death of many inmates.
- ✓ Shortage of funds to maintain the prisoners. The correctional services have inadequate part to rehabilitate convicts through counseling, other living conditions of prison warders like low remuneration and poor housing. Rising cases of corruption, leading to smuggling of legal goods into prisons and prison breaks.

POSSIBLE SOLUTIONS.

- ✓ There has been introduction of community service of petty offenders to decongest prisons.
- ✓ Improving the living conditions for prisoners by medical services, clothing and bedding and also better
- ✓ Release of petty offenders to ease congestion employing and training more personnel.
- ✓ Improving the living conditions for prison warders
- ✓ Construction of better houses.

JUDICIARY

This is the branch of government which co-ordinates the administration of justice through a system of courts in accordance with the law.

The independence of the judiciary in Kenya is guaranteed in the following ways:-the office of a judge of a superior court can't be abolished while the holder is still in office.

The remuneration and benefit of judges is drawn directly from the consolidated fund.

A member of the judiciary cannot be sued in respect of the lawful performance of a judicial function.

The judiciary has a separate system or command, headed by the Chief Justice and delinked from other organs of government.

Judges and magistrates are bound by one Oath of allegiance to perform their duties without fear or favour.

Structure and functions of the court system in Kenya.

The court system in Kenya is hierarchical, that is it is arranged from highest to the lower court system of courts in Kenya is made up of

- a) supreme courts.
- b) subordinate court.

The superior courts are; i) the Supreme Court

- ii) The court of appeal
- iii) The high court

The supreme court

Chief Justice

Deputy Chief Justice

Other judges

Functions of the Supreme Court

- ✓ As exclusive original jurisdiction to hear and determine disputes relating to the election to the office of the president.
- ✓ And determines appeals from the court of appeal and any other court or tribunal.
- ✓ Advisory opinion at the request of the National government.
- ✓ Make decisions which are binding to all other courts.
- ✓ Makes rules for the exercise of its jurisdiction.

ii) The court of appeal

This is the 2nd highest court in the country.

It has only appellate jurisdiction.

It is composed of

The president who is elected from among its judge's less than twelve judges.

FUNCTIONS

- ✓ Hears appeals from the high court.
- ✓ Hears appeals from other courts or tribunals.
- ✓ May order a retrial of a case by a lower court

iii) The High Court

This is the third highest court

It consists of

Principal Judge elected by judges of the high court from among themselves.

A number of judges prescribed by an act of parliament

Functions

- ✓ Has unlimited original jurisdiction in criminal and civil matters.
- ✓ Protects the rights of fundamental freedoms in the Bill of rights.
- ✓ Hears appeals from tribunals appointed by the court to consider removal of a person from office other than the president.
- ✓ Supervises the subordinate courts.
- ✓ Hears appeals from the subordinate courts.

Subordinate courts

They are lower courts. They have limited jurisdiction over criminal and civil cases.

They include the magistrate courts

- The kadhi courts
- The court martial
- Tribunals

a) The magistrate courts

These are headed by a magistrate who is appointed by the judicial service commission

They operate under certain levels. These are:-

- Chief magistrate courts.
- Senior principal magistrates' court
- Principal magistrates court
- Senior resident magistrates court.
- Resident magistrates court.

The chief magistrate courts have administrative powers over all the lower courts within the region. They hear a case that carries a death penalty.

Their hierarchies determine the nature of case handed and the joint sentence given or fine imposed.

b) Kadhi courts

These are Islamic courts. They handle disputes where both parties are Muslim. Their jurisdiction to Muslim matters are such as: Divorce, marriage, inheritance and personal status.

They are headed by chief Kadhi who supervise the other Kadhi courts.

c) Tribunals

It's a special court established by an Act of parliament to handle matters relating to specific fields.

Examples of tribunals in Kenya are

- The rent restriction tribunal
- The business premises rent tribunal
- Commissions of inquiry

The judicial service commission

This is a body established by the constitution to promote and facilitate the independence and accountability of the judiciary.

It is composed of: - The chief justice – chairperson
One supreme court judge
One court of appeal judge.

One high court judge
One magistrate
The attorney – general

Two advocates 1 woman and 1 man, each whom have atleast 15 years expericne,
eleted by the law society of Kenya.

One person nominated by the public service commission.

One woman and 1 man to represent the public appointed by the president with the approval of the National assembly.

The chief registrar of the judiciary – secretary

Functions of the judicial service commission

- ✓ Commands to the president for appointment as judges.
- ✓ Reviews and maeks recommendations on the conditions of service of judges, judicial officers and the staff of the judiciary.
- ✓ Prepares and implements programmes for th continuing education and training of judges and judicial officers
- ✓ Advises the national government on improving the efficiency of the administration of justice.

THE CHIEF JUSTICE

Is head of the judiciary arm of government

He is appointed by the president.

He holds office for one term of 10 years.

For the appointment to the offie the person must have the following qualificastions.

At least 15 years of experience as a Supreme Court judge.

At least 15 years experience as a distinguished academic judicial officer, or legal practitioner.

Hold a law degree from a recognized university or be an advocate of the High court.

Have a high moral character integrity and impartiality.

FUNCTIONS OF THE CHIEF JUSTICE

- ✓ Head of the judiciary.
- ✓ President of the supreme court
- ✓ Chairperson of the judicial service commission.
- ✓ Swears into office of the president, deputy president and cabinet secretaries.
- ✓ Assigns duties to the judges of the Supreme Court.
- ✓ Ways the rule of law is upheld in Kenya.
- ✓ By ensuring the independence of the judiciary
- ✓ By apprehending and taking suspects to court of law for trial.
- ✓ By guaranteeing legal representative to the accused person.
- ✓ By subjecting all persons to the law

Challenges facing the judiciary.

- ✓ Inadequate personnel, leading to delays in the administration of justice and a backlog of cases.
- ✓ Interference in the judicial process by the executive and other influential personalities.
- ✓ Corruption in the court of law which results intoi unfair rulings.
- ✓ Low level of public awareness on their rights and legal procedures.
- ✓ High court fees which limit public access to the courts.
- ✓ The use of outdate laws.
- ✓ Shortage of equipment and facilitate.
- ✓ Poor terms of service and working conditions make it different to administer justice.

SOLUTIONS

- ✓ Employment of more personnel
- ✓ Improving on the terms of service and remuneration of judges and magistrates.
- ✓ Increase funding to the judiciary to enable it acquire modern equipment.
- ✓ Providing legal education to the public.
- ✓ Making courts more indepent to free zones by creating awareness on the illls of corruption.

- ✓ Lowering court fees to make them affordable to ordinary citizens.

FUNCTIONS OF THE NATIONAL GOVERNMENT

- ✓ Developing and implementing foreign affairs and foreign policy.
- ✓ Handles matters concerning trade between Kenya and other countries.
- ✓ Controls the use of international waters and resources.
- ✓ Handles matters pertaining to immigration and citizenship attending the country from external aggression by sitting in place and maintaining a national defence force.
- ✓ Providing and maintaining higher education policies.
- ✓ Developing health care through formulation of policy and construction and maintenance of national referral hospitals.
- ✓ Affecting the environment and national resources affecting the rights of workers by maintaining labour, standard and managing industrial relations' administering justice by establishing and containing an independent judiciary maintaining internal security through the Kenya service. This ensures there is no breakdown law and order.
- ✓ Formulates language policy and promotes the use of official and local languages.